

### REMARKS

This responds to the Office Action dated on July 18, 2007.

Claims 1, 3-7, 9-11, 13-15, and 17 are amended, no claims are canceled or added; as a result, claims 1-17 remain pending in this patent application.

#### Telephonic Interview Summary

Applicant thanks Examiner George Manuel for extending the courtesy of an informal telephonic interview with Applicant's representative, Suneel Arora, on October 16, 2007. Differences between the claim language and Faisandier U.S. Patent No. 5,800,473 were discussed. Although no agreement was reached, the Examiner's feedback was helpful in formulating the present claim amendments, which Applicant believes render the present claims allowable over the rejections of record, for the reasons explained below.

#### Request for Telephonic Interview

If the present claim amendments do not result in allowance of all claims, then Applicant respectfully requests a telephonic interview with Applicant's representative, Suneel Arora, to discuss any rejection that is being maintained, or any new grounds of rejection. Applicant respectfully submits that such telephonic prosecution would be helpful in expediting examination of the present case.

#### §102 Rejection of the Claims

Claims 1, 3-8, 11, 13-15 and 17 were rejected under 35 U.S.C. § 102(b) for anticipation by Faisandier (U.S. Patent No. 5,800,473). Applicant respectfully traverses this rejection.

Applicant cannot find in the cited portions of Faisandier any disclosure of "a first module listing a plurality of product families of cardiac rhythm management system devices" as presently recited or incorporated in these claims. Instead, the cited portion of Faisandier apparently merely discloses "an available list of objects in the programmer software 320."<sup>1</sup>

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<sup>1</sup> Faisandier at col. 5, lines 57-61.

Faisandier's "objects" apparently expressly merely correspond to "object oriented software objects"<sup>2</sup> in a particular implant 200. For example, Faisandier states:

In the beginning of the exchange of data between an implant 200 and a programmer 300 (step 10, FIG. 2), the programmer 230 (sic) systematically calls a block called List-Of-Objects (230) that is a repertory of available objects in the implant (step 20, FIG. 2)... This List-Of-Objects (230) is maintained in the implant. Preferably, the List-Of-Objects (230) also includes the version of each object in the implant.<sup>3</sup> (*List-Of-Objects identifier added, based on FIG. 1 of Faisandier*)

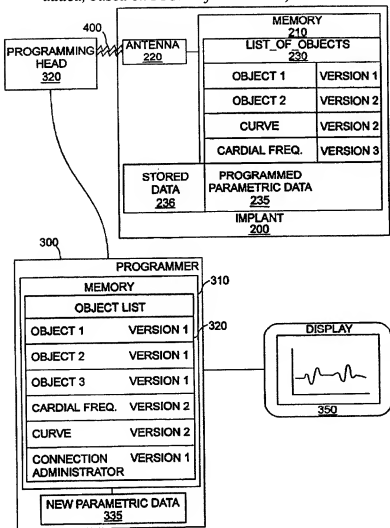


FIG. 1

(Faisandier at FIG. 1.)

<sup>2</sup> *Id.* at col. 4, lines 54-56.

<sup>3</sup> *Id.* at col. 5, lines 46-56.

Thus, Faisandier's objects are apparently representations of object oriented software objects.<sup>4</sup> Faisandier's "objects" clearly do not constitute or even denote "product families of cardiac rhythm management system devices," as presently recited or incorporated in Applicant's claims, as amended.

Moreover, Faisandier actually does not even disclose or describe displaying these software objects in a "listing" on a "user interface display," as similarly recited in the present claims. As such, Faisandier plainly does not disclose or describe an external programmer for an implantable cardiac rhythm management device, the external programmer displaying "product families of cardiac rhythm management system devices," as presently recited in these claims. Instead, it appears that Faisandier's List-Of-Objects 230 is a mere data structure and used in an automatic software update procedure. As described in Faisandier, data in the data structure represented by the List-Of-Objects 230 is apparently communicated from the particular implant 200 to the programmer 300 to determine which software objects are installed in that particular implant 200, and which software objects of that particular implant 200 may need updating.<sup>5</sup> As Faisandier's Brief Description of the Drawings makes clear, FIG. 1 of Faisandier is merely a block diagram illustrating the object list 320 and the List-Of-Objects 230, which merely illustrate the content of each respective data structure. Thus, clearly FIG. 1 is not an example of a user-interface display; hence, neither the List-Of-Objects 230 nor the object list 320 (*see* FIG. 1) are displayed by to a user in the configuration shown in FIG. 1 of Faisandier.

By contrast, Applicant's claims are clearly supported by Applicant's specification, which plainly describes an illustrative (but non-limiting) example of different product families of cardiac rhythm management devices being displayed in a user interface, such as the user interface of an external programmer. In particular, Applicant's Detailed Description states: "... one embodiment of an example user interface 450 for a programmer such as programmer 125 is illustrated."<sup>6</sup> The Detailed Description goes on to discuss "[a] first module 560 preferably includes a list of a plurality of CRM device families 562."<sup>7</sup> An illustrative product family is included in the following sentence, which states: "... one CRM device family listed by the first

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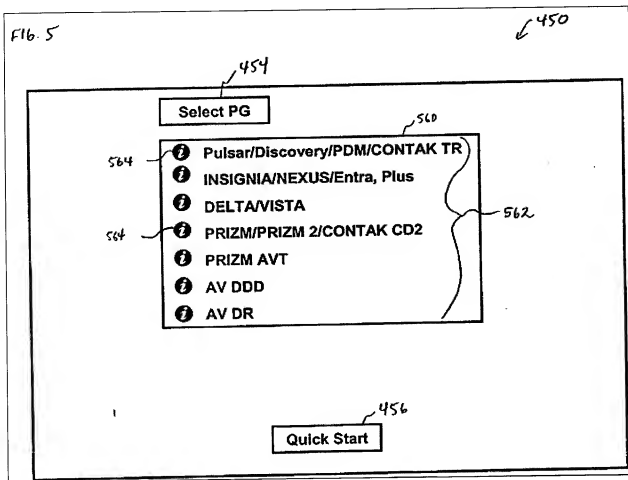
<sup>4</sup> *Id.* at col. 4, lines 54-56.

<sup>5</sup> Faisandier at col. 5, lines 46-67.

<sup>6</sup> Application at p. 7, lines 3-4.

<sup>7</sup> *Id.* at p. 7, lines 16-17.

module 560 is Guidant Corporation's Pulsar/Discovery/PDM/CONTAK TR family of CRM devices."<sup>8</sup> Applicant has included an image of FIG. 5 to further illustrate examples product families in the context of Applicant's claimed invention (e.g., "Pulsar/Discovery/PDM/CONTAK TR" product family, "INSIGNIA/NEXUS/Entra, Plus" product family, "DELTA/VISTA" product family, "PRIZM/PRIZM 2/CONTAK CD2" product family, "PRIZM AVT" product family, "AV DDD" product family, "AV DR" product family, etc.).



Moreover, Applicant cannot find in the cited portions of Faisandier any disclosure of "a plurality of second modules, each associated with a particular one of the product families of the

<sup>8</sup> *Id.* at p. 7, lines 18-19.

cardiac rhythm management system devices listed by the first module,” as presently recited or incorporated in these claims. Being that Faisandier apparently does not disclose or describe “product families of cardiac rhythm management system devices,” clearly, there cannot be “a plurality of second modules” associated with a particular one of such “product families.”

In sum, Applicant respectfully submits that Faisandier apparently fails to disclose all elements recited or incorporated in the present claims, therefore, no *prima facie* case of anticipation exists with respect to these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

*§103 Rejection of the Claims*

Claims 2, 9, 10, 12 and 16 were rejected under 35 U.S.C. § 103(a) as being assertedly unpatentable over Faisandier (U.S. Patent No. 5,800,473). Applicant respectfully traverses this rejection.

Applicant respectfully submits that because all elements recited or incorporated in these claims are apparently not present in Faisandier, no *prima facie* case of obviousness exists with respect to these claims for the reasons discussed above with respect to the § 102 rejection. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

*Reservation of Rights*

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action; however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.


**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

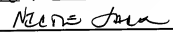
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6951

Date October 18, 2007 By   
Suneel Arora  
Reg. No. 42,267

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 18 day of October 2007.

  
Name

  
Signature